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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/727,124	11/30/2000	Victor L. Vines	108747.00003	2389

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EXAMINER

NGUYEN, VICTOR

ART UNIT

PAPER NUMBER

3731

DATE MAILED: 07/16/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/727,124

Applicant(s)

VINES, VICTOR L.

Examiner

Victor X Nguyen

Art Unit

3731

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 November 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 8 contains the trademark/trade name "KIWI". Where a trademark or trade name is used in a claim as a limitation to identify or describe a particular material or product, the claim does not comply with the requirements of 35 U.S.C. 112, second paragraph. See *Ex parte Simpson*, 218 USPQ 1020 (Bd. App. 1982). The claim scope is uncertain since the trademark or trade name cannot be used properly to identify any particular material or product. A trademark or trade name is used to identify a source of goods, and not the goods themselves. Thus, a trademark or trade name does not identify or describe the goods associated with the trademark or trade name. In the present case, the trademark/trade name is used to identify/describe a type of hand pump and, accordingly, the identification/description is indefinite. See MPEP 2173.05(u).

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) The invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined

was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1-5 are rejected under 35 U.S.C. 102 (b) as being anticipated by Gutierrez (U.S. 4,014,344).

Regarding claim 1, Gutierrez discloses a device for enabling the recording of a pressure produced by a vacuum device (Figs 7,8,9), having: a cable (50,56) is attached to a monitor (Fig 4, col 5, lines 45-51). The monitor (Fig 4, col 5, lines 45-51) is enabled to record a detected pressure; and a pressure detection device (Figs 4, 9) coupled to the cable (50,56). The pressure detection device (Figs 4, 9) is coupled to a tubing (col 5, lines 28-52) such that the pressure detection device (Figs 4, 9) is enabled to detect a pressure in the tubing (col 5, lines 28-52).

Regarding claims 2,3, Gutierrez discloses the device wherein the tubing (col 5, lines 28-52) has a first end and a second end; furthermore, the first end and the second end are enabled to couple to the tubing (col 5, lines 28-52).

Regarding claim 4, Gutierrez discloses the device wherein the first end is enabled to attach to a vacuum pump (col 5, lines 1-68).

Regarding claim 5, Gutierrez discloses the device wherein the first end is enabled to attach to a suction device (col 4, lines 5-68; col 6, lines 8-27).

Claims 6,7,9-12 are rejected under 35 U.S.C. 102 (b) as being anticipated by Gutierrez (U.S. 4,014,344).

Regarding claim 6, Gutierrez discloses a method of using a recording device to record a pressure in a vacuum device (Figs 7,8,9), having: coupling the recording device to the vacuum device (Figs 7,8,9); and recording the pressure to produce a record.

Regarding claim 7, Gutierrez discloses the method comprising the act of calibrating the recording device by zeroing the pressure (col 6, lines 8-68).

Regarding claim 9, Gutierrez discloses the method further comprising the act of placing a vacuum device on a fetus (Figs 7,8).

Regarding claims 10, 11, 12, Gutierrez discloses the method wherein the recording is achieved electronically and with a paper printout; furthermore, comprising the act of storing the record (col 2, lines 14-26).

Claims 13-20 are rejected under 35 U.S.C. 102 (e) as being anticipated by Wallace et al (U.S.6,355,047).

Regarding claim13, Wallace discloses a pump-attachable device (col 4, lines 8-67) for monitoring and recording a pressure in a vacuum device (Figs 1-4), having: an adapter (112 is considered an adapter) attached to a pressure gauge (116, 402) receiver of a hand pump (114); an air pressure detector (130 is considered an air pressure detector) secured in the adapter (112) such that the pressure detector is exposed to an air cavity in the hand pump (114); and a cable (208) coupled to the air pressure detector (130), the cable (208) enabled to attach to a monitor (Fig 4) for recording a detected pressure.

Regarding claim14, Wallace discloses the pump-attachable device (col 4, lines 8-67) wherein the air pressure detector (130) is a transducer.

Regarding claims 15, 16, 19, Wallace discloses the pump-attachable device (col 4, lines 8-67) wherein the monitor (Fig 4) is coupled to the cable (208) and the monitor (Fig 4) is enabled to display a detected pressure; furthermore, the monitor (Fig 4) is enabled to generate a paper record (col 5, lines 8-40; col 7, lines 1-15).

Regarding claims 17, 18, Wallace discloses the pump-attachable device (col 4, lines 8-67) wherein the air pressure detector (130) generates a mechanical signal based on the pressure and generates an electrical signal based on the pressure (col 2, lines 1-67; col 6, lines 1-67).

Regarding claim 20, Wallace discloses the pump-attachable device (col 4, lines 8-67) having a pressure release valve (Fig 1, col 3, 4, lines 1-67) coupled to the hand pump (114).

Conclusion

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Pat. No. 5,395,379 to Deutchman et al U.S. Pat. No. 5,649,934 to Smeltzer, III
U.S. Pat. No. 6,361,542 to Dimitriu et al U.S. Pat. No. 6,074,399 to Wallace et al
U.S. Pat. No. 3,062,215 to O.S. Heyns

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor X Nguyen whose telephone number is (703) 305-4898.

The examiner can normally be reached on M-F (8-4.30 P.M).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Milano can be reached on (703) 308-2496. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3590 for regular communications and (703) 305-3590 for After Final communications.

Art Unit: 3731

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0858.

Victor X Nguyen
Examiner
Art Unit 3731

vn
July 12, 2002



MICHAEL J. MILANO

SUPERVISORY PATENT EXAMINER

TECHNOLOGY CENTER 3700